

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

JUSTIN MITCHELL OLIVER,)	CV 18-00425-LEK-RLP
)	
Plaintiff(s),)	
)	DEFICIENCY ORDER
vs.)	
)	FILED IN THE
STATE OF HAWAII,)	UNITED STATES DISTRICT COURT
)	DISTRICT OF HAWAII
Defendant(s).)	November 2, 2018
)	At 4 o'clock and 00 min p.m.
		SUE BEITIA, CLERK

DEFICIENCY ORDER

Plaintiff, a prisoner proceeding pro se, has filed a Complaint in this court that was not accompanied by either a filing fee or an application to proceed *in forma pauperis*. Parties instituting a civil action, suit or proceeding in a United States District Court, other than a writ of habeas corpus, must pay a filing fee of \$350.00 and an administrative fee of \$50.00. See 28 U.S.C. § 1914(a) and District Court Miscellaneous Fee Schedule, ¶ 14 (effective December 1, 2013). This administrative fee does not apply to applications for writ of habeas corpus or to persons who are granted *in forma pauperis* status under 28 U.S.C. § 1915. An action may only proceed without concurrent payment of the filing fee if the party is granted leave to proceed *in forma pauperis* ("IFP"). 28 U.S.C. § 1915(a); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

Plaintiff is advised that he or she must either pay the statutory filing fee of \$350.00 and the administrative fee of \$50.00, or submit a fully-completed *in forma pauperis* application within TWENTY EIGHT (28) days (including weekends and holidays) of this Order. Failure to do so will result in **AUTOMATIC DISMISSAL**, of this action for failure to prosecute or otherwise follow a court order. See Fed. R. Civ. P. 41(b); *Olivares v. Marshall*, 59 F.3d 109, 112 (9th Cir. 1995)(stating that the district court may dismiss a complaint for failure to pay partial filing fee); *In re Perroton*, 958 F.2d 889, 890 (9th Cir. 1992) (affirming dismissal of appeal of pro se litigant for failure to pay required filing fees).

Plaintiff is NOTIFIED that, regardless of in forma pauperis status, as a prisoner he or she is required to pay the full filing fee: \$400.00 if in forma pauperis status is denied, \$350.00 if it is granted. If in forma paperis status is granted, the court will order payments to be withdrawn from Plaintiff's prison trust account when funds exceeding \$10.00 are available. Plaintiff must complete the Court's prisoner informa pauperis application form and include a certified copy of Plaintiff's prison trust account activity for the 6-month period immediately preceding the filing of his or her Complaint. 28 U.S.C. § 1915 (a) (1) and (2).

IT IS HEREBY ORDERED that:

1. The Clerk of Court is **DIRECTED** to send Plaintiff an appropriate copy of the Court's Application to Proceed *in forma pauperis* with the accompanying information sheet.
2. Plaintiff is GRANTED twenty eight days to either pay the \$400.00 filing fee or submit a completed and executed application to proceed *in forma pauperis* on the forms provided by the court with this Order. The application must bear the docket number assigned to this case. Failure to timely file an *in forma pauperis* application or the statutory filing fee within twenty eight days of the date of this Order will result in **AUTOMATIC DISMISSAL** of this action.

IT IS SO ORDERED.

DATED: November 2, 2018 at Honolulu, Hawaii,



/s/ J. Michael Seabright
J. MICHAEL SEABRIGHT
CHIEF UNITED STATES DISTRICT JUDGE